

Notice of Intent to Certify Sole Source

To: Interested Parties

From: David C. Johnson

CC: ITS Project Number 46782

Date: November 2, 2021

Re: Sole Source Certification Number 4424 to provide WinWam questionnaire deluxe software licenses, software maintenance, training, and development and integration services for the Mississippi Department of Agriculture and Commerce (MDAC)

Contact Name: Alec Shedd

Contact Phone Number: 601-432-8162

Contact E-mail Address: Alec.Shedd@its.ms.gov

Sole Source Certification Award Details

Regarding Information Technology Services (ITS) Sole Source Certification Number 4424 for the Mississippi Department of Agriculture and Commerce (MDAC), please be advised that ITS intends to award Nover Engelstein & Associates, Inc., as the sole source provider of WinWam questionnaire deluxe software licenses, software maintenance, training, development and integration services through November 30, 2024, in an amount not to exceed \$209,500.00. Please be advised that ITS will determine if additional software licenses, software maintenance, training, or development and integration services are within scope during the certification period and may increase the spending authority accordingly. Should Nover Engelstein & Associates, Inc. change their name during this certification period, then ITS will determine if a recertification is necessary. For an explanation regarding Mississippi state law, policy and procedures for sole source procurements, refer to Attachment C: Sole Source Procurement Overview.

Sole Source Criteria

1. The product or services being purchased must perform a function for which no other product or source of services exist:

MDAC complies with the Department of Commerce National Regulations – National Institute of Standards and Technology (NIST) Handbook 133, NIST Handbook 44, and NIST Handbook 130. MDAC's research has found that WinWam Software is the only commercially available and proven software product that performs inspections in adherence to all three of the National Regulations: NIST Handbook 133 – Supplement 4, NIST Handbook 44, and NCWM Publication 19 in a state government environment. WinWam is the only out of the box solution that includes the national tolerances and calculations built into the software. Furthermore, the uniqueness of

the WinWam Software also includes the integration of online national regulations (NIST Handbook 44 and NCWM Publication 19) in a hypertext format. WinWam supports all devices specified in NIST Handbook 44 including scales, heavy capacity scales, bulk weighing systems, weights, vehicle tank meters, anhydrous, ammonia, liquid measuring devices, belt conveyor scales, milk meters, water meters, mass flow meters, farm milk tank, wire and cordate and dry measures. MDAC have conducted market research and reached out to other states and have determined that the WinWam software is the only software that meets the necessary NIST compliance requirements without additional customization or development. The customer's sole source certification request is included as Attachment A.

2. The purchaser must be able to show specific business objectives that can be met only through the unique product or services:

The WinWam software provides MDAC with a commercial off the shelf solution for inspection of weights and measuring devices, petroleum pumps and devices, consumer protection including package checking and price verification, animal health, and produce safety. WinWam interfaces out of the box with more than twenty models of scales, dynamically calculates RcRt for tare, calculates average error per commodity inspected, automatically calculates and displays SEL and Standard Deviation, and tracks label/package failure. Integration with national standards must be exhibited out of box with no customer development required. The customer's sole source certification request is included as Attachment A.

3. The product or services must be available only from the manufacturer and not through resellers who could submit competitive pricing for the product or services:

Nover Engelstein & Associates, Inc. is the developer, distributor, and sole source provider of the WinWam Weights & Measures Software products. In addition, Nover Engelstein & Associates, Inc. is the only company that supports, maintains, and trains these products. The Vendor's sole source certification letter is included as Attachment B.

4. Explanation of why the amount to be expended for the services is reasonable.

The cost to customize other solutions would require more development, and the cost to implement the needed functionality would far exceed current costs.

5. Explanation of what the agency did to obtain the best possible price for these services.

MDAC is receiving multiple discounts for training, development, and integration services.

Schedule

Task	Date
First Advertisement Date	11/2/21
Second Advertisement Date	11/9/21
Response Deadline From Objectors	11/17/21 at 3:00 P.M. Central Time
Notice of Award/No Award Posted	Not before 11/18/21

Project Details

Since 2001, WinWam has been procured and certified as Sole Source by ITS on behalf of MDAC. MDAC is required by law to conduct field inspections for Petroleum, Consumer Protection, Weights

and Measures, and the Board of Animal Health. In November 2018, ITS issued Notice of Intent to Certify Sole Source Number 4140 for WinWam inspection licenses, questionnaire software licenses, implementation services, and annual software maintenance and received no objections or responses. The total spend-to-date for the software and maintenance is \$898,412.72.

Submission Instructions and Format of Response from Objecting Parties

Interested parties who have reason to believe that the WinWam questionnaire deluxe software licenses, software maintenance, training, development and integration should not be certified as a sole source should provide information in the following format for the state to use in determining whether or not to proceed with awarding the Sole Source contract to Nover Engelstein & Associates, Inc.

1.1 Interested Party Information

1.1.1 Contact Name, Phone Number and email address

1.1.2 Company Website URL, if applicable

1.2 Objection to Sole Source Certification

1.2.1 Interested parties must present specific objections to the Sole Source certification using the criteria listed above.

1.2.2 A statement regarding the Interested Party's capabilities as related to this Sole Source Certification Request.

1.3 Comments will be accepted at any time prior to Wednesday, November 17, 2021, at 3:00 p.m. (Central Time) to Alec Shedd at Alec.Shedd@its.ms.gov or at the Mississippi Department of Information Technology Services, 3771 Eastwood Drive, Jackson, Mississippi 39211. Responses may be delivered by hand, via regular mail, overnight delivery, e-mail or by fax. Fax number is (601) 713-6380. ITS WILL NOT BE RESPONSIBLE FOR DELAYS IN THE DELIVERY OF RESPONSES. It is solely the responsibility of the Interested Parties that responses reach ITS on time. Interested Parties may contact Alec Shedd to verify the receipt of their Responses. Responses received after the deadline will be rejected.

1.4 Interested Party responses should include the following information:

**SUBMITTED IN RESPONSE TO
Sole Source Certification No. 4424-46782
Accepted until November 17, 2021 @ 3:00 p.m.,
ATTENTION: Alec Shedd**

If you have any questions concerning the information above or if we can be of further assistance, please contact Alec Shedd at 601-432-8162 or via email at Alec.Shedd@its.ms.gov.

Attachment A: Customer Sole Source Certification Request
Attachment B: Vendor Correspondence
Attachment C: Sole Source Procurement Overview

Sole Source Certification Request

Project Title:		WinWam Sole Source Licenses	
Contact Information			
Agency/Institution:		MDAC	Contact Person: Jason Price
Mailing Address:		121 North Jefferson St., Jackson MS 39201	Phone Number: 601-359-1151
			Email Address: jasonp@mdac.ms.gov
MAGIC Customer #: (Only required from state agencies.)		4000001401	Division/Dept:
Project Summary			
Description of Project: (Include details of original acquisition if applicable)		MDAC has been using WinWam since 2001 and would like to continue support of the existing system. The software is used to conduct field inspections for Petroleum, Weights & Measures, and the Board of Animal Health. The current CP-1 is expiring November 30, 2021. MDAC has conducted a thorough review of the industry and have determined that the needed functionality is not provided by any other software off the shelf.	
ITS Acquisition Approval (CP-1) should be effective through this date:		11/30/24	
Cost Estimates (Maximum allowed duration is 3 years per request/project)			
Fiscal Year	Initial Costs	Ongoing Costs	Time Constraints
FY 2022		\$44,190.00	Item Needed by: 11/30/21
FY 2023	\$75,225.00	\$44,805.00	Funds Expire:
FY 2024		\$45,280.00	Other Important Deadline(s): (e.g. current contract/CP-1 expiration dates)
Total Estimated Project Cost:		\$209,500.00	CP-1 expires 11/30/21
Funding Source: 100% State Funds			
Discuss Funding: (e.g. fund number; how much of needed funding is definite; total project budget; any matching or other non-state funds)		State funds divided between Petroleum, Consumer Protection, Weights and Measures, Bureau of Animal Health, and Produce Safety.	
Acquisition Details			
Item or Part Number	Quantity	Description	Building Location(s)
WinWam Inspection Software	40	Inspection software for devices and assets	Statewide field inspectors
Software maintenance	3	3 years of maintenance	
Training	2	2 days of training	
Services	160	160 hours of development and integration services	
Describe Platform and Infrastructure: Where does your agency plan to house or host the requested equipment or service? What resources currently available through ITS are needed (network connectivity, cloud computing/storage, colocation, business resiliency, etc.)?			
NOTE: For equipment or services outside of current ITS available contracts and resources, justification must be attached.			
No impact on the ITS network. WinWam is stand-alone software running on MDAC equipment.			
Sole Source Certification - Certification must be renewed for each revision or continuation of previous Sole Source Approvals.			
Explain why these products or services are the only ones that can meet your needs: (Include specific functionality or special features that make this product or service unique.)		MDAC complies with the Department of Commerce National Regulations – National Institute of Standards and Technology (NIST) Handbook 133, NIST Handbook 44, and NIST Handbook 130. MDAC's research has found that WinWam Software is the only commercially available and proven software product that performs inspections in adherence to all three of the National Regulations: NIST Handbook 133 – Supplement 4, NIST Handbook 44, and NCWM Publication 19 in a state government environment. WinWam is the only out of the box solution that includes the national tolerances and calculations built into the software. Furthermore, the uniqueness of the WinWam Software also includes the integration of online national regulations (NIST Handbook 44 and NCWM Publication 19) in a hypertext format. WinWam supports all devices specified in NIST Handbook 44 including scales, heavy capacity scales, bulk weighing systems, weights, vehicle tank meters, anhydrous, ammonia, liquid measuring devices, belt conveyor scales, milk meters, water meters, mass flow meters, farm milk tank, wire and cordate and dry measures. MDAC have conducted market research and reached out to other states and have determined that the WinWam software	

	is the only software that meets the necessary NIST compliance requirements without additional customization or development.
Specific business requirements to be met by the products/services: (e.g. intended use, how it helps accomplish a task, etc.)	The WinWam software provides MDAC with a commercial off the shelf solution for inspection of weights and measuring devices, petroleum pumps and devices, consumer protection including package checking and price verification, animal health, and produce safety. WinWam interfaces out of the box with more than twenty models of scales, dynamically calculates RcRt for tare, calculates average error per commodity inspected, automatically calculates and displays SEL and Standard Deviation, and tracks label/package failure. Integration with national standards must be exhibited out of box with no customer development required.
Explain why this is the only entity that can provide the products/services: (Include other products/vendors researched or evaluated.)	Nover Engelstein & Associates, Inc. is the developer, distributor, and sole source provider of the WinWam Weights & Measures Software products. In addition, Nover Engelstein & Associates, Inc. is the only company that supports, maintains, and trains these products.
If for services or installations (not a product) the following two questions must be addressed.	
Explain Below why the amount to be expended is reasonable:	Explain below what was done to obtain the best possible price:
The cost to customize other solutions would require more development, and the cost to implement the needed functionality would far exceed current costs.	MDAC is receiving multiple discounts for training, development, and integration services.
Vendor's proposal submitted: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (select only one) Vendor's Certification of Sole Source attached: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
MAGIC Vendor Code(s) - Vendor must be in MAGIC before a CP-1 can be issued.	
Place Order To Vendor Code:	Vendor Name: Nover Engelstein & Assoocs Inc. Remit To Vendor Code: Vendor Name: Nover Engelstein & Assoocs Inc. Vendor Address: 3000 Atrium Way #2203, MT Laurel, NJ 08054 Vendor Address: 3000 Atrium Way #2203, MT Laurel, NJ 08054
3100002034	3100002034

By my signature, I certify that, to the best of my professional knowledge, the requested product or services are a sole source as outlined in the ITS Procurement Handbook, Rule 207.2-013-030 Procurement Types: Sole Source, and as outlined in Mississippi Code annotated Section 31-7-13.

Jason Price - CIO

Name (Agency Head or Public University CIO)/Title


Signature

10/28/2021

Date

NOVER ENGELSTEIN & ASSOCIATES, INC.

3000 Atrium Way, Suite 2203 Mt. Laurel, NJ 08054-3910

Tel: (856) 273-6988 Fax: (856) 751-0559 e-mail: sales@winwam.com

The logo for WinWam, featuring the company name in white serif font on a red rectangular background.

September 22, 2021

Mr. Jason Price
Chief Information Officer
Mississippi Department of Agriculture & Commerce
121 North Jefferson Street
Jackson, Mississippi 39201

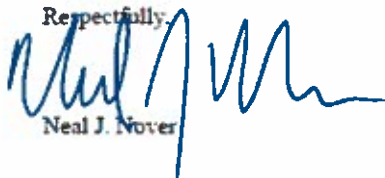
Dear Jason:

As a follow-up to your inquiry, WinWam Software is the ONLY commercially available and proven software product that performs inspections in adherence to all three of the National Regulations: NIST Handbook 133 - Supplement 4, NIST Handbook 44 and NCWM Publication 19 in a state government environment. WinWam is the only *out of the box* solution that includes the national tolerances and calculations built into the software. Furthermore, the uniqueness of the WinWam Software also includes the integration of online national regulations (NIST Handbook 44 and NCWM Publication 19) in a hypertext format.

Nover Engelstein & Associates, Inc. is the developer, distributor and sole source provider of the WinWam Weights & Measures Software products. In addition, Nover Engelstein & Associates, Inc. is the only company that supports, maintains and trains these products.

Please let me know if there is any other information that you require.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Neal J. Nover', written over the word 'Respectfully'.

Neal J. Nover

Attachment C

The acquisition of information technology for all state agencies and institutions of higher learning (IHLs) is within the scope of the ITS law, found in Mississippi Code Section 25-53-1, et seq., and the policies and procedures established in accordance with this statute, found in the ITS Procurement Handbook posted on the ITS website (www.its.ms.gov).

ITS enabling legislation requires that information technology hardware, software and services be acquired in a manner that insures the maximum of competition among all manufacturers and suppliers of such equipment and services. Accordingly, ITS promotes full and open competition through the issuance of open specifications and the objective evaluation of Interested Party proposals to determine the lowest and best offering to meet an agency's or public university's business requirements. True competition protects the integrity and credibility of purchasing in the public sector and is essential in providing best value and adequate contractual protection for the purchasing entity. In certain limited situations, information technology acquisitions may be sole-sourced.

ITS utilizes the provisions of Public Purchasing Law for Sole Source and Emergency procurements of information technology. Mississippi Public Purchasing Law (Mississippi Code Section 31-7-13) specifies that noncompetitive items available from one source only be exempted from bid requirements (sole-sourced). ITS statute, in Section 25-53-5 (p), permits ITS to utilize provisions in Public Purchasing Law or regulations, when applicable.

Per Public Purchasing law, acquisitions must meet the following criteria to be authorized as sole source:

1. The product or services being purchased must perform a function for which no other product or source of services exists,
2. The purchaser must be able to show specific business objectives that can be met only through the unique product or services, AND
3. The product or services must be available only from the manufacturer and NOT through resellers who could submit competitive pricing for the product or services. The vendor's correspondence regarding this criterion for this project is included as Attachment B.

By policy as documented in the ITS Procurement Handbook, acquisitions of IT services must include the following information to be authorized as sole source:

1. An explanation about why the amount to be expended is reasonable, and
2. An explanation regarding the efforts by the purchaser to obtain the best possible price.

For state agencies, approval of all technology purchases with a lifecycle cost of \$5,000 or less, including sole source purchases, has been delegated to the agency. The ITS Procurement Limits Policies for Agencies (a section in the ITS Procurement Handbook) require a minimum of two competitive written bids or proposals for technology purchases with a lifecycle cost over \$5,000 but not over \$50,000 (not over \$25,000 for projects funded by the American Recovery and Reinvestment Act). Since, for single source items, the procuring agency will be unable to obtain two written bids, ITS must certify all sole source acquisitions of information technology with a lifecycle cost greater than \$5,000.

Institutions of Higher Learning (IHLs) or public universities have been delegated the authority to certify sole source procurements up to \$250,000 lifecycle cost under the ITS Procurement Limits Policies for IHLs (a section in the ITS Procurement Handbook). For the certification of sole source procurements delegated to the CIOs at public universities, the public university must follow ITS' Sole Source Procedure, including advertisement of the intent to award as sole source. Institutions certifying a sole source purchase must ensure the criteria listed above are met and documented in writing by the institution and the Interested Party prior to certifying a product or service as sole source. Sole source documentation must be reviewed and approved by the IHL's CIO for any sole-source certification

above \$5,000. All sole source documentation should be retained in the public university's procurement file. Sole source requests above \$250,000 lifecycle cost require ITS approval.

Other than the delegations outlined above, all sole source technology procurements must be certified by ITS. The customer's Sole Source Certification Request for this project is included as Attachment A.

ITS thoroughly reviews Sole Source Certification Requests, determining if competing products and/or services exist. If so, ITS conducts a competitive procurement. If ITS' review confirms the sole source, then a Sole Source advertisement is issued, giving other Interested Parties an opportunity to identify competing products and/or services. Based upon the results of the Sole Source advertisement, ITS will either certify the request as a sole source or conduct a competitive procurement.